

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
APPENDIX**





77-6204

UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT

John V. Collins,

Plaintiff-Appellant

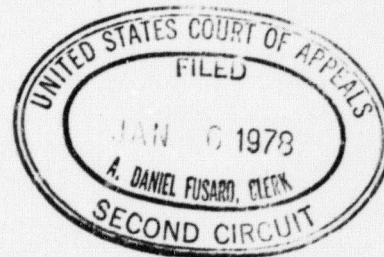
CIVIL APPEAL

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Docket No. 77-6204

United States of America

Defendant-Appellee



PLAINTIFF-APPELLANT'S APPENDIX

Consisting of two documents

Docket Index #5 — PLAINTIFF'S RESPONSE AND OBJECTIONS TO  
DEFENDANT'S MOTION FOR DISMISSAL.

Docket Index #7 — MEMORANDUM AND ORDER OF U.S. DISTRICT COURT, EASTERN DISTRICT DATED 14 OCT 77.

## ## ## ## ## ## ## ## ## ## ## ## ##

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IN THE UNITED STATES DISTRICT COURT  
Eastern District of New York  
Civil Section

John V. Collins,

Plaintiff,

v.

The United States,

Defendant.

No. 77-C-1023

PLAINTIFF'S RESPONSE AND OBJECTIONS TO  
DEFENDANT'S MOTION FOR DISMISSAL.

Defendant has filed a motion, hearable 13 Oct 77, that above-captioned action be dismissed on grounds that:

1. Court lacks jurisdiction in that plaintiff has failed to show "he has been perceptibly harmed by the challenged law" and thereby failed to demonstrate requisite "controversy".
2. Plaintiff fails to state a claim upon which relief can be granted.

The facts of the matter are that:

1. Plaintiff has suffered perceptible harm.
2. Plaintiff has stated a claim upon which relief can be granted.

and therefore plaintiff moves Court to deny defendant's motion

to dismiss. In support of plaintiff's motion for such denial the following facts and arguments are supplied.

A CLAIM UPON WHICH RELIEF CAN BE GRANTED.

- I. The defendant asserts (Page 8, Paragraph 2, Government's Memorandum of Law to Support Motion to Dismiss) and the plaintiff agrees that the Constitution grants to Congress the power "to coin money, regulate the value thereof".

The defendant makes a masterful case (Pages 8, 9 and 10, Government's Memorandum of Law) and plaintiff agrees that there has been built up over the past century a body of Constitutional law supporting the concept that Congress's power "to coin money" extends far beyond the mere stamping of metal into coin but embraces all aspects of the creation of money including the Federal Reserve Act's concept of creating money (demand deposits) by bookkeeping entries in the banking system.

And here is where the plaintiff and the defendant part company.

The plaintiff claims that Congress, in enacting the Federal Reserve Act, granted to private parties (commercial banks) a power that had been reserved exclusively to Congress by the Constitution; namely, the power to coin (create) money.



Proof of this claim is quite simple as follows:

1. An instant concomitant of creation is ownership of the thing created. This ineluctable fact of life is well recognized in our patent and copyright laws.
2. It therefore follows that whomsoever is the creator of our money is, at the instant of creation, the owner of that money and, conversely, the owner of the money at the instant of creation is perforce the creator of that money.
3. Inasmuch as commercial banks are the instant owners of money created under the Federal Reserve Act's system of creating (coining) money by bookkeeping entry it must inescapably follow that the commercial banks are the creators of our money.
4. Inasmuch as the Constitution states, Art.I, Sec. 8, Cl. 5.,  
§, that the power to coin (create) money is the exclusive power of Congress, hence the Federal Reserve Act which makes commercial banks the creators of money is unconstitutional and should be so declared as the plaintiff requests.

## II.

### HARM TO PLAINTIFF

#### A. Rent of Money:

Enactment by Congress of the Federal Reserve Act which granted to commercial banks the power to coin (create)



money caused the plaintiff perceptible harm as follows:

1. Appendix "A" shows that plaintiff is a 1965 retiree of the U.S. Civil Service and, concomitantly therefore, a taxpayer.
2. As demonstrated in I (2) above the Federal Reserve Act makes commercial banks the concomitant creator and owner of newly created money.
3. To obtain use of this newly created money Congress must rent same; in competition with other seekers of money.
4. The rent on money is interest — interest paid for all the time the money is used; in this case into perpetuity.
5. This interest is paid by taxpayers.
6. Hence Congress, in enacting the Act, saddled the plaintiff, for his lifetime, with a tax to pay for an unconstitutional act.

B. Reduction in Plaintiff's Income:

1. Appendix "A" shows that the plaintiff is a 1965 retiree of the U.S. Civil Service.
2. Inasmuch as demonstrated in II (A)(3) above Congress, to obtain use of newly created money, must pay the concomitant creator and owner interest on the use of said money, the creators of money, to maximize their business, have created money far in excess of need.

3. Creation of money far in excess of need is inflation.
4. The Government's Cost of Living Index shows that inflation has reduced the purchasing power of plaintiff's retirement income by 50% since his year of retirement.
5. The plaintiff need not elaborate upon the devastating effect of such inflationary diminution of income has upon the individual. It is already well known to the Federal judiciary; some 42 Federal judges recently seeking relief therefrom in U.S. Court of Claims on the grounds that inflationary diminution of income constituted a violation of Art.III, Sec.1, U.S. Const. that Federal judges "compensation shall not be ~~reduced~~ diminished during their continuance in office."

III. Plaintiff believes that he has adequately stated (a) a claim upon which relief can be granted and (b) demonstrated he has suffered sufficient harm to justify a controversy. He therefore moves the Court to deny defendant's motion to dismiss.

IV. DEFENDANT'S MOTION FOR EXTENSION OF TIME.

Defendant further moves the Court that, if his motion to dismiss be denied, an order be issued granting him an additional 10 days to answer complaint. Plaintiff has no objection to such an extension of time.



V. PLAINTIFF'S MOTION FOR LEAVE TO SUBMIT WRITTEN REMARKS  
IN LIEU OF ORAL ARGUMENTS AND APPEARANCE IN COURT.

Appendices "B" and "C" demonstrate that plaintiff, in 1976, was rendered totally disabled by osteoarthritis of the spine and was further~~ed~~ handicapped by a heart attack on 2 Jul 77. In that plaintiff is incapable of travel he therefore moves the Court for an order allowing plaintiff's prosecution of his action by mailed submission of written remarks alone in lieu of oral argument and actual presence in Court.

Respectfully submitted

John V. Collins  
Plaintiff  
23 Sep 77.



DOCKET INDEX #1 (7)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOHN V. COLLINS,

Plaintiff,

- against -

UNITED STATES OF AMERICA,

Defendant.

DOCKET NO. 77 C 1023

MEMORANDUM AND ORDER

- - - - - x

PRATT, J:

Plaintiff's pro se complaint seeks declaration that the Federal Reserve Act of 1913, as amended, 12 USC §§221 et seq., is unconstitutional.

In filing his action, the issue put before the Court by the plaintiff was, in essence, a judicial answer to the question: "When the federal reserve system, in performing its congress-assigned task of creating money, does create such money to whom does that money become the property of at the instance of its creation?"

Plaintiff's memorandum in support of motion for default filed September 20, 1977.

If the newly created money was the property of the United States, plaintiff argues, then the act is unconstitutional "in that said act makes such money, at the instance of its creation, the private property of the bank in which such creation took place and as such private property loaned at interest to the United States." Id. at 2. If the newly created money was the private property of the bank, on the

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other hand, plaintiff suggests that the Federal Reserve Act unconstitutionally permits anyone to manufacture money contrary to Article I, Section 8, Clause 5.

By notice filed September 13, 1977 plaintiff moved for judgment by default, defendant having failed to answer following service of the summons and complaint on May 16, 1977. Defendant responded by motion to dismiss pursuant to FRCP 12. Plaintiff has shown no prejudice from government's neglect of the action; a default judgment on action such as this would have nationwide ramifications and would not be in the public interest nor would it promote justice. Accordingly, the motion for a default judgment is denied. As to defendant's motion to dismiss, plaintiff has requested an "advisory opinion" rather than presented a "case or controversy"; consequently, this court lacks subject matter jurisdiction over the action, and defendant's motion to dismiss is granted.\*

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\* Plaintiff's complaint also fails to state a cause of action since it is premised on the incorrect assumption that whoever prints ("creates") the money owns the money. Plaintiff is referred to defendant's memorandum of law which sets out the statutory framework for and the operations of the Federal Reserve System. In essence, the member commercial banks of the system "create" the currency for the government, not instead of the government. As defendant's memorandum of law correctly notes, the banking system embodied in the Federal Reserve Act has withstood numerous challenges to its constitutionality.

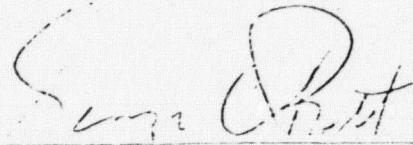


Relying on his theory that the United States is unlawfully paying interest to the member banks of the Federal Reserve System for the use of printed money, plaintiff asserts his taxpayer status and the fact that he is now retired on a United States Civil Service Commission pension in support of his standing to challenge the constitutionality of the Federal Reserve Act. However, not only are such assertions insufficient to present a case or controversy generally, see Flast v. Cohen, 392 US 83 (1968), but substantially the same allegations advanced by plaintiff here were specifically rejected in Home v. Federal Reserve Bank of Minneapolis, 344 F2d 725 (CA8 1965). See also, Koll v. Wayzata State Bank, 397 F2d 124 (CA8 1968). Plaintiff's request that the court declare the Federal Reserve Act of 1913 unconstitutional is tantamount to an attempt to obtain an advisory opinion where no injury in fact is alleged by the plaintiff. There being no case or controversy as required by Article 3, Section 2, Clause 1 of the Constitution, this court has no subject matter jurisdiction over the action. See Golden v. Zwickler, 394 US 103 (1969); Flast v. Cohen, supra.

Accordingly, plaintiff's motion for a default judgment is denied. Defendant's motion to dismiss pursuant to FRCP 12 is granted, and the complaint is dismissed.

SO ORDERED.

Dated: October 14, 1977  
Westbury, New York.

A handwritten signature in dark ink, appearing to read "George C. Pratt", written over a horizontal line.

GEORGE C. PRATT  
U. S. DISTRICT JUDGE



